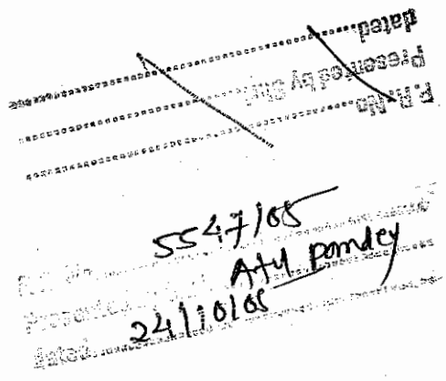
SINGLE BENCH

3

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition NO.5265 /2005

PETITIONER : M.K. Pandey
S/o. L.N. Pandey
Aged about 54 years
Occupation-S.D.O. Water Resources Survey, Sub-Division, Bilaspur (C.G.), R/o Parijat Extension, Nehru Nagar, Bilaspur (C.G.)



VERSUS

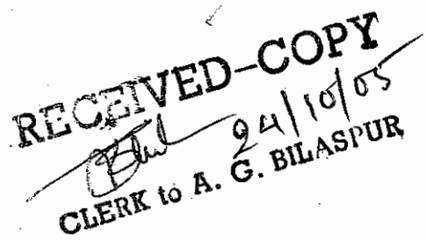
RESPONDENTS :1. State of Chhattisgarh
Through : Secretary
Deptt. of Water Resources,
Mantralaya D.K.S., Bhawan , Raipur (C.G.)

2. Engineer In chief
Deptt. Water Resources,
Sihava Bhawan, Raipur (C.G.)

3. The Executive Engineer
Department of Water Resources
Office of Water Resources Department.
Bilaspur (C.G.)

4. The Chief Executive Engineer
Water Resource Survey
Unit No. 9, Bilaspur (C.G.)

5. Dinesh Bhagoria
S.D.O. Land Water Resource
Sub-Divisicn, Bilaspur (C.G.)



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WRIT PETITION U/A 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(24)

मामला क्रमांक W.P. No. 5265 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27.10.2005 Ku. Deepali Pandey, counsel for the petitioner. Shri Akhil Agrawal, Panel Lawyer for the State, on advance copy. Heard on admission. The petitioner namely M.K. Pandey, who is presently working as the Sub-Divisional Officer, Water Resources Survey, Sub Division Bilaspur (C.G) and has been locally shifted from the aforesaid establishment to the office of Assistant Engineer, Divisional Land Water Survey Unit No.9, Bilaspur by impugned order dated 10.10.2005; has challenged the validity of the aforesaid order in this writ petition. The submission of learned counsel for the petitioner is that the aforesaid order of posting of the petitioner to the new office amounts to transfer and the same has been effected in the ban period as according to the policy of the State Government, the transfers are not to be effected after 31.8.2005. She further submits that the petitioner has been shifted to another office merely for accommodating respondent no.5 who is being brought from another sub-division at Bilaspur to the present sub-division of the petitioner. After bare perusal of the order dated 10.10.2005 (Annexure P-1), it would appear that by the impugned order, the Government has made certain local shiftings. Not only, the petitioner but two other officers of	

(25)

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the department have been locally shifted and posted in other establishmens by the said impugned order. By this order only the sub-division of the petitioner has been changed in the city of Bilaspur itself which has been shown to be made on the administrative grounds. I do not feel that the aforesaid action of the State Government would strictly amount to a transfer as has been submitted by the petitioner. Therefore, the first point regarding transfer in ban period fails and the arguments in this regard cannot be accepted.

The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendrikya Vidya Sangathan -Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563*** held that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by *mala-fide* or infraction of any prescribed norms of principles governing the transfer. (***Please see Ambani Kanta Ray -Vs- State of Orissa - 1995 (Suppl.) 4 SCC 169***). The Apex Court further held that unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (***See Union of India -Vs- S.L. Abbas AIR 1993 SC 2444***). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of

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transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In *Union of India & others -Vs- Janardan Debanath & another (2004) 4 SCC 245*, it was observed by the Supreme Court as follows:

> "No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in National Hydroelectric Power Corpn. Ltd. -Vs- Shri Bhagwan (2001) 8 SCC 574.

During the course of arguments, learned counsel for the petitioner could not point out and show that the aforesaid local shifting was made

27

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मामला क्रमांक W.P.NO-5265 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
4.	to accommodate respondent no.5. She also could not point out as to how this shifting is an out-come of malafide or the same is in violation of any statutory rules made by the Government or the guidelines issued by the departments. Even otherwise also since the petitioner has been locally shifted from one sub-division to another in the city of Bilaspur only, I am not inclined to interfere with the aforesaid impugned order dated 10.10.2005. The petition has no merit and the same is dismissed at the motion stage without notice to the other side. Consequently, M.W.P.No.4249/2005 stands disposed of. **Sd/-** **Sunil Kumar Sinha** **Judge**	

Rao

Rc

SP/FS/2005 - 20,000